

FAX

THE SHERWIN-WILLIAMS COMPANY
LEGAL DEPARTMENT
101 PROSPECT AVENUE, NW
CLEVELAND, OHIO 44115
FAX: (216) 515-4400

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MAR 14 2008

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TO: Mail Stop PETITION
Commissioner for Patents
PATENT AND TRADEMARK OFFICE

FAX#: (571) 273-8300

DATE: March 14, 2008

FROM: Laurie M. Feltes, Legal Assistant
for Vivien Y. Tsang, Reg. No. 40,209

PHONE: (216) 566-1681

Number of pages including this cover page: 11

Original Sent By U.S. Mail? ☐ Yes ☒ No

Message: Dear Sir:

Please find enclosed a Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (transmittal in duplicate) and a Notice Of Appeal From The Examiner To The Board Of Patent Appeals And Interferences (in duplicate) for Serial No. 09/998,997.

Laurie M. Feltes
Laurie M. Feltes

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03-14-2008

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MAR 14 2008

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. 6933
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In Re Application Of:
Gerald M. Sweitzer, et al.

Application No. 09/998,997	Filing Date 11/30/2001	Examiner Edward J. Cain	Customer No. 59272	Group Art Unit 1714	Confirmation No.
--------------------------------------	----------------------------------	-----------------------------------	------------------------------	-------------------------------	-------------------------

Invention:

WATERBORNE COATING COMPOSITIONS

Attention: Office of Petitions
Mail Stop Petition
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee—required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified notice or action:

☒ is enclosed. ☐ was filed on _____

The proposed reply is in the form of: Notice of Appeal

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on _____

3. ☒ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

4. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

5. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

MAR 14 2008

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Large Entity)**Docket No.
6933

In Re Application Of:

Gerald M. Sweitzer, et al.

Application No.

09/998,997

Filing Date

11/30/2001

Examiner

Edward J. Cain

Customer No.

59272

Group Art Unit

1714

Confirmation No.

Invention:

WATERBORNE COATING COMPOSITIONS**Calculation and Payment of Fees**

Enclosed are the following fees:

6. ☒ Petition fee under 37 CFR 1.17(m) in the amount of: \$1,540.00
7. ☐ Fee for reply in the amount of: _____
8. ☐ Issue fee in the amount of: _____
9. ☐ Continuing application filing fee in the amount of: _____
10. ☐ Terminal disclaimer fee in the amount of: _____
11. ☐ _____
- Total fees enclosed: \$1,540.00

The fee of **\$1,540** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2025**
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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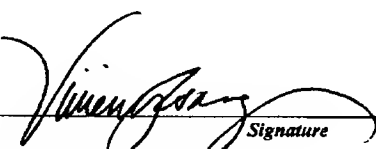
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MAR 14 2008

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Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)					Docket No. 6933	
In Re Application Of: <div style="text-align: center;">Gerald M. Sweitzer, et al.</div>						
Application No. 09/998,997	Filing Date 11/30/2001	Examiner Edward J. Cain	Customer No. 59272	Group Art Unit 1714	Confirmation No.	
Invention: <div style="text-align: center; margin-top: 10px;">WATERBORNE COATING COMPOSITIONS</div>						
<p align="center">Statement</p> <p>The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), Subsections (III)(C) and (D)).]</p> <p align="center">WARNING:</p> <p>Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.</p>						
 <div style="text-align: right; margin-right: 50px;"><i>Signature</i></div> <p>Vivien Y. Tsang, Esq. The Sherwin-Williams Company 11 Midland Bldg. - Legal Dept. 101 Prospect Avenue, N.W. Cleveland, Ohio 44115</p> <p>Reg. No. 40,209 Phone: (216) 566-2487</p>			<p>Dated: March 14, 2008</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37</p> <p style="text-align: center;">(Date)</p> <p style="text-align: center;"><i>Signature of Person Mailing Correspondence</i></p> <p style="text-align: center;"><i>Typed or Printed Name of Person Mailing Correspondence</i></p> </div>			
CC:						

MAR 14 2008

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Large Entity)**
Docket No.
6933

In Re Application Of:

Gerald M. Sweitzer, et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/998,997	11/30/2001	Edward J. Cain	59272	1714	

Invention:

WATERBORNE COATING COMPOSITIONS

Attention: Office of Petitions
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COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
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- (4) Statement that the entire delay was unintentional.

1. ☒ A proposed reply to the above-identified notice or action:

☒ is enclosed. ☐ was filed on _____

The proposed reply is in the form of: Notice of Appeal

2. ☐ The issue fee:

☐ is enclosed. ☐ was paid on _____

3. ☒ The abandoned application was a:

☐ design application. ☒ utility application. ☐ plant application.

4. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

5. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

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MAR 14 2008

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)					Docket No. 6933	
In Re Application Of: <div style="text-align: center;">Gerald M. Sweitzer, et al.</div>						
Application No. 09/998,997	Filing Date 11/30/2001	Examiner Edward J. Cain	Customer No. 59272	Group Art Unit 1714	Confirmation No.	
Invention: <div style="text-align: center;">WATERBORNE COATING COMPOSITIONS</div>						
Calculation and Payment of Fees						
Enclosed are the following fees:						
6. <input checked="" type="checkbox"/> Petition fee under 37 CFR 1.17(m) in the amount of:					<u>\$1,540.00</u>	
7. <input type="checkbox"/> Fee for reply in the amount of:					<u> </u>	
8. <input type="checkbox"/> Issue fee in the amount of:					<u> </u>	
9. <input type="checkbox"/> Continuing application filing fee in the amount of:					<u> </u>	
10. <input type="checkbox"/> Terminal disclaimer fee in the amount of:					<u> </u>	
11. <input type="checkbox"/> _____					<u> </u>	
Total fees enclosed:					<u>\$1,540.00</u>	
<p>The fee of \$1,540 is to be paid as follows:</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2025</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p>						
03/17/2008 VBUI11 00000042 192025 09990997 01 FC:1453 1540.00 DA						

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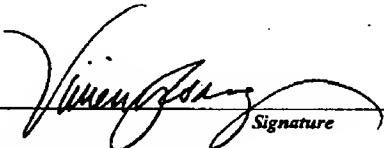
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MAR 14 2008

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)					Docket No. 6933	
In Re Application Of: <div style="text-align: center;">Gerald M. Sweitzer, et al.</div>						
Application No. <div style="text-align: center;">09/998,997</div>	Filing Date <div style="text-align: center;">11/30/2001</div>	Examiner <div style="text-align: center;">Edward J. Cain</div>	Customer No. <div style="text-align: center;">59272</div>	Group Art Unit <div style="text-align: center;">1714</div>	Confirmation No.	
Invention: <div style="text-align: center; margin-top: 10px;">WATERBORNE COATING COMPOSITIONS</div>						
<p align="center">Statement</p> <p>The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), Subsections (III)(C) and (D)).]</p> <p align="center">WARNING:</p> <p>Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.</p>						
 <div style="text-align: right; margin-right: 50px;"><i>Signature</i></div> <p>Vivien Y. Tsang, Esq. The Sherwin-Williams Company 11 Midland Bldg. - Legal Dept. 101 Prospect Avenue, N.W. Cleveland, Ohio 44115</p> <p>Reg. No. 40,209 Phone: (216) 566-2487</p>			<p>Dated: March 14, 2008</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37</p> <p>(Date)</p> <p>Signature of Person Mailing Correspondence</p> <p>Typed or Printed Name of Person Mailing Correspondence</p> </div>			
CC:						

MAR 14 2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:)
GERALD M. SWEITZER, et. al.) Examiner: Edward J. Cain
Docket No.: 6933) Group Art Unit: 1714
Serial No.: 09/998,997)
Filing Date: November 30, 2001)
For: WATERBORNE COATING COMPOSITIONS)

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Dear Sir:

Applicants hereby petition for revival of this patent application abandoned unintentionally under 37 CFR 1.137(b).

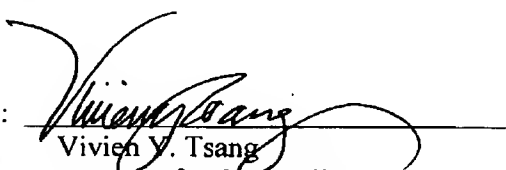
The patent application became abandoned unintentionally due to a clerical error. In the notice of April 2, 2007, it was noted in Part III that "[I]t is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability." As such, it appeared that no further action was necessary by the applicant. Thus, the abandonment of the application was unintentional.

In light of the foregoing, Applicants respectfully request that the application be revived under 37 CFR 1.137(b). A Notice of Appeal is also being submitted herewith.

Any fees resulting from this communication should be charged to our Deposit Account No. 19-2025.

Respectfully submitted,
GERALD M. SWEITZER, et. al.

By:


Vivien Y. Tsang
Attorney for the Applicants
Reg. No. 40,209

March 14, 2008

The Sherwin-Williams Company
11 Midland Bldg. - Legal Dept.
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115
Phone: (216) 566-2487

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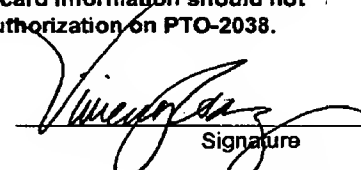
Doc Code:

PTO/SB/31 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) 6933
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>March 14, 2008</u> Signature <u>Laurie M. Feltes</u> Typed or printed name <u>Laurie M. Feltes</u>		In re Application of Gerald M. Sweitzer, et al. Application Number 09/998,997 Filed 11/30/2001 For WATERBORNE COATING COMPOSITIONS Art Unit 1714 Examiner Edward J. Cain
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.		
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))		\$ <u>510.00</u>
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ _____
<input type="checkbox"/> A check in the amount of the fee is enclosed.		
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.		03/17/2008 VBUI11 00000042 192025 00998997 02 FC:1401 510.00 DA
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.		
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <u>19-2025</u> . I have enclosed a duplicate copy of this sheet.		
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.		
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.		
I am the		 Signature
<input type="checkbox"/> applicant/inventor.		Vivien Y. Tsang Typed or printed name
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		(216) 566-2487 Telephone number
<input checked="" type="checkbox"/> attorney or agent of record. Registration <u>40,209</u>		March 14, 2008 Date
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.		

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.